



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2011-0083; Notice 2]

Michelin North America, Incorporated, Grant of Petition for  
Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration, DOT

**ACTION:** Grant of Petition

**SUMMARY:** Michelin North America, Inc.(MNA), has determined that certain Michelin brand passenger car replacement tires, do not fully comply with paragraph S5.5<sup>1</sup> of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New pneumatic radial tires for light vehicles*. MNA has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports* on June 2, 2011.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, MNA has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of the petition was published, with a 30-day public comment period, on April 4, 2012 in the Federal Register

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<sup>1</sup> In its petition MNA states its belief that the subject tires do not meet the load marking requirements of 49 CFR Part 571.139 S5.5(d). However, the actual noncompliance is due to an error in the tire size designation marking required by 49 CFR Part 571.139 S5.5(b) which causes the load marking to appear to be incorrect.

(77 FR 20483). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at:

<http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2011-0083."

For further information on this decision contact Mr. Jack Chern, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-0661, facsimile (202) 493-0073.

**TIRES INVOLVED:** Affected are approximately 17,500 Michelin Primacy MXV4 TL passenger car replacement tires labeled as sizes P205 65 R15 94H, P205 65 R15 94V, and P225 55 R17 97H that were manufactured by SC Michelin Romania SA in Victoria, Romania between January 9, 2011 and May 28, 2011.

**SUMMARY OF MNA'S ANALYSIS AND ARGUMENTS:** MNA explained that the noncompliance is a tire sidewall labeling error. A prefix letter "P" was inadvertently added to the tire size designation required by paragraph S5.5 (b) by FMVSS No. 139.

The tire was designed to comply with the European Tyre and Rim Technical Organization (ETRTO) standard for maximum load and inflation pressure. The Max Load and Max Pressure markings on the tire are correct and the tire passes all certification requirements at the marked loads/pressures under 49 CFR Part 571.139. The mix of ETRTO loads with the "P"-metric size

designation causes the tire to be noncompliant with both the ETRTO standard and the Tire and Rim Association (T&RA) standard, thus becoming noncompliant with the labeling requirements of 49 CFR Part 571.139 S5.5. All other markings are compliant with the FMVSS requirements.

MNA stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. Both the 205/65 R15 and the 225/55 R17 radial tire were originally conceived as a Euro-metric radial tire. Both tires when certifying to DOT requirements were tested in accordance with safety standard FMVSS No. 139 as well as the ETRTO standard for dimensions, pressure, load, and performance. The subject tires meet or exceed all of the minimum performance requirements for FMVSS No. 139 at the load and pressure marked on the respective sidewall.
2. The P-metric version of the tire dimensions specify a maximum load and pressure that is less than the maximum load and associated pressure of the Euro-metric dimension. Performance capabilities as P-metric dimensions exceed all P-metric requirements.

3. Should the subject tires be selected and fitted based on their markings, no possibility of tire overloading exists.
4. The P-metric dimensional marks on the subject tires would be treated as such in the replacement market. At the dealer or consumer level, the inconsistency between the dimensional marking and the maximum load marking may lead to some confusion at the time of installation, but fitment would still be acceptable.
5. Whether the tires are fitted as P-metric dimensions per the current industry fitment guide, or fitted according to the subject tire's sidewall's maximum load. These tires do not risk the possibility of being overloaded when making a replacement tire selection for vehicle fitment.

In addition, MNA states that it has corrected the problem that caused the noncompliance so that it will not reoccur in future production.

In summation, MNA believes that the subject noncompliance is inconsequential to motor vehicle safety, and that its petition, to exempt it from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

**REQUIREMENT BACKGROUND:** Paragraph S5.5 of FMVSS No. 139

specifically states:

S5.5 *Tire markings.* Except as specified in paragraphs (a) through (i) of S5.5 each tire must be marked on each sidewall with the information specified in S5.5 (a) through (d) and on one sidewall with the information specified in S5.5 (e) through (i) according to the phase-in schedule specified in S7 of this standard. The markings must be placed between the maximum section width and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area that is not more than one-fourth of the distance from the bead to the shoulder of the tire. If the maximum section width falls within that area, those markings must appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall. The markings must be in letters and numerals not less than 0.078 inches high and raised above or sunk below the tire surface not less than 0.015 inches...

(b) The tire size designation as listed in the documents and publications specified in S4.1.1 of this standard;...

**NHTSA'S ANALYSIS OF MNA'S REASONING:** Pursuant to 49 U.S.C.

§30118(d) and 49 U.S.C. §30120(h) and the rule implementing those provisions at 49 CFR part 556, Michelin North America, Inc. ("MNA"), has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Specifically MNA states that the inconsistency does not meet the load marking requirements of 49 C.F.R Part 571.139 S5.5(d).

The affected tires in this petition of noncompliance are approximately 133,906 tires that were manufactured, of which

approximately 17,500 Michelin P205/65R15 and P225/55R17 Primacy MXV4 TL tires were released and/or imported to the United States market whose sidewall markings contain the letter "P" as a prefix to the Euro-metric dimension marking, resulting in the creation of an unintended P-metric dimension, for which the marked maximum load value is not consistent with the published T&RA standard. As stated by Michelin North American, Inc "MNA", "whether the subject tires are fitted as P-metric dimensions per the current industry fitment guide, or fitted following the subject tire's sidewall marked maximum load, these tires do not risk the possibility of being overloaded when marking a replacement tire selection for fitment.

**NHTSA DECISION:** NHTSA agrees with Michelin North America, Inc. ("MNA") that the tires in question, Michelin 205/65R15 and 225/55R17, that the noncompliances are inconsequential to motor vehicle safety. The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is that there is no impact on the operational safety of the vehicles on which these tires are mounted.

As MNA stated, both subject tires are marked on both the inboard and outboard sidewall with the prefix "P". Since the intended design max load specifications of these tires is higher than those specified with the "P" prefix under the T&RA standard then we can conclude that the parameters specified in the T&RA

standard do not surpass the parameters molded on the tire sidewall, and hence safety is not compromised.

In consideration of the foregoing, NHTSA has decided that MNA has met its burden of persuasion that the FMVSS No. 139 noncompliance for the replacement tires identified in MNA's Noncompliance Information Report is inconsequential to motor vehicle safety. Accordingly, MNA's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the 17,500 replacement tires that MNA no longer controlled at the time it determined that a noncompliance existed in the subject tires. However, the granting of this petition does not relieve tire distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their

control after MNA notified them that the subject noncompliance existed.

**AUTHORITY:** (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

**ISSUED ON:** May 17, 2013.

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Claude H. Harris, Director  
Office of Vehicle Safety Compliance

**BILLING CODE:** 4910-59-P

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